

THE FLORIDA SUPREME COURT

INQUIRY CONCERNING
A JUDGE, No.00-261
RE: ROBERT H. BONANNO

CASE NUMBER: SC01-2078

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**RESPONSE TO STATE’S MOTION TO REMAND TO THE
CIRCUIT COURT FOR DETERMINATION REGARDING
DISCLOSURE OF GRAND JURY TESTIMONY**

COMES NOW the Honorable ROBERT H. BONANNO, by and through his undersigned attorney, and responds to the motion filed by the Office of the Attorney General on behalf of the Honorable Jerry A. Hill, State Attorney for the Tenth Judicial Circuit, as follows:

1. The State’s motion suggests that it is premature for the Supreme Court to consider unsealing the grand jury testimony without the trial court having an opportunity to review the matter in the first instance. Later the State acknowledges in its motion that, “counsel [for Bonanno] applied to presiding Circuit Court Judge Schaeffer for the same character of relief sought by the FJQC by its motion in this Court.”
2. It appears as though the State promotes revisiting the issue before the trial court at which time a semblance of *res judicata* argument could be presented. Alternatively if due to the intervening voluntary submission of the presentment by the Honorable Jerry Hill directly to the Supreme Court, and public commentary on the subject matter, or, for that matter any other reason the trial court unsealed the transcripts, a likely appeal by the State would follow. Either way the Supreme Court may have to entertain the issue.

3. While it is acknowledged that mere naked demands by a party do not establish a sufficient basis to unseal, counsel for Respondent BONANNO has been saddled with the caveat of the trial court conveyed on May 25, 2001, to stay away from disclosure of any of the contents of the grand jury transcripts. Thus a summary of the reasons for unsealing cannot be presented unless a certain amount of procedural latitude is given. In the event the State's motion were granted and the matter remanded it would be important to establish the parameters so that beyond the FJQC's reasons in support of unsealing the motion Respondent would also be able to present what he previously wanted to present but was restricted from doing.
4. The Respondent, ROBERT H. BONANNO, reaffirms the position he has for long taken that transcripts of the testimony of witnesses who appeared before the grand jury in this case should be unsealed and released either by this Court or by the trial court.
5. The use of grand jury testimony under the furtherance of justice doctrine, when ratified by a court, is recognized as permissible in Florida and other jurisdictions. Without unsealing the transcripts BONANNO cannot adequately defend himself. It would be manifestly unjust to reject the stipulation and the agreement of the parties in this matter without a review of the relevant evidence.
6. The Respondent, ROBERT H. BONANNO, continues to join in every respect in Petitioner Florida Judicial Qualification Commission's motion to unseal grand jury testimony now pending before this Court.

WHEREFORE the Respondent, ROBERT H. BONANNO, requests the entry of an appropriate order herein.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail delivery to Brook S. Kennerly, Executive Director, Judicial Qualifications Commission, 1110 Thomasville Road, Tallahassee, Florida 32303; Lauri Waldman Ross, Esquire, Two Datan Center, Suite 1612, 9130 South Dadeland Blvd., Miami, Florida 33156-7818; the Honorable Jerry Hill, Drawer SA, P.O. Box 9000, Bartow, Florida 33831-9000; and Carolyn N. Snurkowski, Assistant Deputy Attorney General, Office of the Attorney General, The Capitol, Tallahassee, Florida 32399-1050, this _____ day of October, 2001.

Respectfully Submitted

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